IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE C.V.RAMULU**

**WRIT PETITION NO : 4530 of 1995**

Between:

The Management of M/s Singareni Collieries Co. Ltd., Rep by

General Manager Ramakrishnapur Area, Adilabad Dist.

**..... PETITIONER**

AND

1 The Presiding Officer, Industrial Tribunal I, Chandra Vihar, M.J.Road, Hyderabad.
2 The Workmen of Singareni Collieries Co. Ltd., Rep by Branch

Secretary,S.C. Workers Union (INTUC) Po: Ramakrishnapur Adilabad Dist.

**.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction or writ, particularly one in the nature of a WRIT OF CERTIORARI after calling for the records from the first respondents in I.D.No. 30/90 and quash the Award passed there in dated 6.4.94.

**Counsel for the Petitioner:MR.K.SRINIVASAMURTHY**

**Counsel for the Respondent No.1: GP FOR LABOUR**

**Counsel for the Respondent No.2: MR.G. VIDYASAGAR,**

**The Court made the following :**

**O R D E R :**

This Writ Petition is filed challenging the Award passed by the first respondent-Industrial Tribunal-I, at Hyderabad in I.D.No.30 of 1990, dated 06.04.1994 wherein the claim of the workman was answered in his favour directing the petitioner-Management to reinstate the workman into service with all back wages, attendant benefits, seniority and all other benefits as per the Company's Rules, standing order and notification etc.

2. The workman while working as general mazdoor in the petitioner's organization at Ramakrishnapur, Adilabad District was issued with a charge sheet dated 15.05.1984 alleging that the petitioner himself misbehaved with the Executive Engineer and tried to man-handle him since he was not granted leave. After conducting a detailed enquiry into the matter, the workman was dismissed from service. Aggrieved by the same, the workman raised a dispute before the conciliation authority. On failure of the conciliation, the matter was referred to the Government and in turn the Government of India, Ministry of Labour, referred the matter to the Industrial Tribunal under Section 10(1)(d)(2A) of the Industrial Disputes Act, 1947 for adjudication of the following issue:

> *"Whether the action of the Management of M/s. S.C.Co.Ltd., Ramakrishnapur in terminating services of Sri P.Samaiah, General Mazdoor, RK-I CSP, is*

*justified? If not, to what relief the workman concerned is entitled?"*

3. Before the Industrial Tribunal, on behalf of the workman, no documents were marked and no witnesses were examined. However, on behalf of the Management, MW-1 was examined and Exs:M-1 to M-8 were marked.

4. On appreciation of the entire evidence on record, the Industrial Tribunal came to the conclusion that though there was misconduct on the part of the workman who was an illiterate, the punishment of dismissal from service was disproportionate to the gravity of the misconduct alleged. Therefore, the dismissal of the workman was not justified. While holding so, the Tribunal directed reinstatement of the workman into service with all back wages, attendant benefits, seniority and all other benefits as per the company's rules, standing order and notification etc. Aggrieved by this Award, the management of the Company has filed the present Writ Petition.

5. Learned counsel for the petitioner-Management contended that the Labour Court having held that the workman abused the officials of the
respondent-management for the refusal to grant leave, since the workman was an illiterate person and a labourer and it is common parlance that whatever goes wrong with the officials of the management and workmen, it is bound to be violent turn and using of filthy language is the common phenomenon. The charge levelled and proved against the workman was not so grave and serious so as to warrant the punishment of dismissal from service. The learned counsel for the petitioner-Management further submits that having found that the allegations are proved, it was not within the purview of the Labour Court to interfere with the punishment inflicted on the workman by the management, since the charge was grave and does not require interference of the Labour Court.

6. The learned counsel for the second respondent-workman Sri G.Vidyasagar submitted that the Labour Court while exercising its powers under Section 11 of the Industrial Disputes Act, has ample discretion to take the overall circumstances into consideration and this is one such case where the Labour Court has rightly

appreciated the contention of the workman that he is an illiterate labourer and the common parlance used by him apart from the fact that the charge levelled against the workman was not so grave and serious to warrant the punishment of dismissal from service. Therefore, the Award passed by the Labour Court does not warrant any interference by this Court.

7. The learned counsel for the second respondent-workman also contended that in fact the whole disciplinary proceedings were initiated for the reason that the Executive Engineer against whom the workman purported to have used filthy language and tried to man-handle himself has appointed the Enquiry Officer and conducted the enquiry and he participated in the enquiry and also cross-examined the witnesses and recommended for higher authorities for dismissal of workman from service. This itself would go to show that there was gross violation of the rules and the principles of natural justice. Be that as it may, now that the Award is not under challenge by the workman. Therefore, we need not go into those allegations.

8. The Labour Court has given cogent reasons saying that it was a petty dispute of not granting leave to the workman by the management and may be a workman turned violent and used some filthy language. But, the charge levelled and proved against the workman was not so grave and serious requiring inflicting of punishment of dismissal from service and may be the workman ought to have been inflicted with a lesser punishment i.e. stoppage of increment, stoppage of wages for the absented period etc. Therefore, the dismissal from service of the workman is shockingly disproportionate to the gravity of the misconduct committed by him. While holding so, the Labour Court has granted all the reliefs and there is no punishment inflicted even as contemplated by the Labour Court in its proceedings. Therefore, I am of the view that once the misconduct is proved and once such finding is arrived at, the workman ought to have been inflicted with a lesser punishment other than the dismissal from service and that being so, the Labour Court ought not to have granted full wages for the period which the workman was out of service. Therefore, the Award of the Labour Court is liable to be modified as under:

> “In the result, the action of the Management of M/s. Singareni Collieries

Company Limited, Ramakrishnapur in terminating services of Sri P.Samaiah General Mazdoor, RK-I CSP is not justified. The Respondent-Management is directed to reinstate the petitioner-workman into service ***with 50% of the back wages,*** attendant benefits, seniority and all other benefits as per the Company's Rules, standing orders, notifications etc."

9. The Writ Petition is allowed to the extent indicated above. There shall be no order as to costs.

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C.V. RAMULU, J

Dated: 31-12-2004

ccm

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday the Thirty First day of December two thousand and four.

To

1 The Presiding Officer, Industrial Tribunal I, Chandra Vihar, M.J.Road, Hyderabad.
2 The Workmen of Singareni Collieries Co. Ltd., Rep by Branch Secretary,S.C. Workers Union (INTUC) Po: Ramakrishnapur Adilabad Dist.
3 2 CCs to the Government Pleader for Labour, High Court Buildings,

High Court of A.P., Hyderabad(OUT)

4 2 CD copies.